

CGM
M. Rosen

13950

GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-198789

June 5, 1980

The Honorable Bob Bergland 42
Secretary of Agriculture

Dear Mr. Secretary:

[Relief]

This responds to a request from Dean K. Crowther, Director of the Office of Operations and Finance, Department of Agriculture, for the relief of Ms. Dorothy M. Sharp from liability for the loss of imprest funds in the amount of \$626.81. Ms. Sharp is an Imprest Cashier for the Forest Service at the Kootenai National Forest, headquartered in Libby, Montana. For the reasons that follow, relief is granted. DLG

The record reveals that the shortage in the imprest account resulted from a burglary at the Rexford Ranger Station in Eureka, Montana. The imprest account was housed in the Ranger Station Office and kept in a Remington Rand Citadel Safe-file-Premier. During the night of November 20, 1979, or early morning of November 21, someone broke into the office through its North door, pried open the top and right side cover of the safe and escaped with the \$626.81 of imprest funds in the safe. The remainder of the imprest fund was accounted for by receipts.

When Ms. Sharp discovered the burglary on the morning of November 21, the Lincoln County Sheriff's Office, the Federal Bureau of Investigation and the Secret Service were immediately notified. The Lincoln County Sheriff's Office conducted the only official investigation. On December 17, 1979, a suspect was arrested and confessed to the robbery. None of the cash was recovered, and no information implicating Ms. Sharp in connection with the theft was discovered.

We have authority under 31 U.S.C. § 82a-1 (1976) to grant relief to accountable officers for the physical loss of funds upon our concurrence with the agency head or his delegate:

"(1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties or that such loss or deficiency occurred by reason of the act or omission of a subordinate



010771

B-198789

of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent."

In the instant case, the Department of Agriculture's Office of Operations and Finance expressly made the requisite determination that Ms. Sharp was acting in the discharge of her official duties. The question of relief therefore turns upon the presence or absence of negligence.

The presumption that accountable officers have been negligent when a physical loss of funds for which they are responsible occurs can be rebutted by evidence to the contrary. 54 Comp. Gen. 112, 115 (1974). We have previously granted relief to accountable officers where the evidence is clear that a theft took place and an investigation has revealed no connection between the accountable officer and the theft. See, B-189795, September 23, 1977 (safe opened with an acetylene torch by burglars at the Fairbanks, Alaska office of the Geological Survey at a time when the office was closed) and B-184274, September 29, 1975 (unknown intruders broke into a cash box in the office safe of the Tulsa, Oklahoma Employment Assistance Office).

In the instant case, there is clear evidence that the office was broken into and that a theft took place. A Forest Service employee stated that he locked the North door of the Eureka Station at 6:30 p.m. on November 20, 1979. The door was found open the next morning and fresh scratch marks were discovered on the door lock bolt. The imprest funds were kept in an approved safe-file which was forcibly pried open. At the time, the town of Eureka was experiencing a number of similar break-ins. In addition, a suspect was arrested and confessed to the crime.

Based on the investigation by the Lincoln County Sheriff's Office, the Department of Agriculture's Office of Operations and Finance determined that the robbery occurred without fault or negligence by Ms. Sharp. The record supports this finding. We therefore concur in the administrative determination that Ms. Sharp should be relieved of liability in this case. The loss may be charged to Forest Service Appropriation 120110.35, National Forest Systems Protection and Management.

Sincerely yours,

Larry R. Dan Clave
for Milton J. Socolar
General Counsel